

AMENDED IN SENATE APRIL 16, 2012

SENATE BILL

No. 1414

Introduced by Senator Dutton

February 24, 2012

An act to amend ~~Section 11349.3 of the Government Code, relating to state government~~ Sections 34167 and 34171 of the Health and Safety Code, relating to redevelopment, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1414, as amended, Dutton. ~~Administrative regulations and rulemaking.~~ Community redevelopment.

Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies, as defined. Existing law requires successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, repay enforceable obligations, as defined, and to remit unencumbered balances of redevelopment agency funds, including housing funds, to the county auditor-controller for distribution to taxing entities.

Existing law would expand enforceable obligations to include the use of the proceeds of the issuance of Rancho Cucamonga Redevelopment Agency's 2004 Tax Allocation Bonds to implement and complete an infrastructure project, as specified.

This bill would make legislative findings and declarations as to the necessity of a special statute for the successor agency to the Rancho Cucamonga Redevelopment Agency.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law requires the Office of Administrative Law to either approve a regulation submitted to it for review and transmit it to the Secretary of State for filing, or disapprove the regulation within 30 working days after the regulation was submitted to the office for review, as specified.~~

~~This bill would make a technical, nonsubstantive change to this provision.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~^{yes}. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 34167 of the Health and Safety Code is
2 amended to read:

3 34167. (a) This part is intended to preserve, to the maximum
4 extent possible, the revenues and assets of redevelopment agencies
5 so that those assets and revenues that are not needed to pay for
6 enforceable obligations may be used by local governments to fund
7 core governmental services including police and fire protection
8 services and schools. It is the intent of the Legislature that
9 redevelopment agencies take no actions that would further deplete
10 the corpus of the agencies' funds regardless of their original source.
11 All provisions of this part shall be construed as broadly as possible
12 to support this intent and to restrict the expenditure of funds to the
13 fullest extent possible.

14 (b) For purposes of this part, "agency" or "redevelopment
15 agency" means a redevelopment agency created or formed pursuant
16 to Part 1 (commencing with Section 33000) or its predecessor or
17 a community development commission created or formed pursuant
18 to Part 1.7 (commencing with Section 34100) or its predecessor.

19 (c) Nothing in this part in any way impairs the authority of a
20 community development commission, other than in its authority
21 to act as a redevelopment agency, to take any actions in its capacity
22 as a housing authority or for any other community development
23 purpose of the jurisdiction in which it operates.

24 (d) For purposes of this part, "enforceable obligation" means
25 any of the following:

26 (1) (A) Bonds, as defined by Section 33602 and bonds issued
27 pursuant to Section 5850 of the Government Code, including the
28 required debt service, reserve set-asides and any other payments

1 required under the indenture or similar documents governing the
2 issuance of the outstanding bonds of the redevelopment agency.

3 *(B) The use of the proceeds of the issuance of Rancho*
4 *Cucamonga Redevelopment Agency's 2004 Tax Allocation Bonds*
5 *to implement and complete an infrastructure project for which the*
6 *proceeds of those bonds were previously expended to partially*
7 *implement the project by defraying design, property acquisition,*
8 *or construction costs.*

9 (2) Loans of moneys borrowed by the redevelopment agency
10 for a lawful purpose, including, but not limited to, moneys
11 borrowed from the Low and Moderate Income Housing Fund, to
12 the extent they are legally required to be repaid pursuant to a
13 required repayment schedule or other mandatory loan terms.

14 (3) Payments required by the federal government, preexisting
15 obligations to the state or obligations imposed by state law, other
16 than passthrough payments that are made by the county
17 auditor-controller pursuant to Section 34183, or legally enforceable
18 payments required in connection with the agencies' employees,
19 including, but not limited to, pension payments, pension obligation
20 debt service, and unemployment payments.

21 (4) Judgments or settlements entered by a competent court of
22 law or binding arbitration decisions against the former
23 redevelopment agency, other than passthrough payments that are
24 made by the county auditor-controller pursuant to Section 34183.
25 Along with the successor agency, the oversight board shall have
26 the authority and standing to appeal any judgment or to set aside
27 any settlement or arbitration decision.

28 (5) Any legally binding and enforceable agreement or contract
29 that is not otherwise void as violating the debt limit or public
30 policy.

31 (6) Contracts or agreements necessary for the continued
32 administration or operation of the redevelopment agency to the
33 extent permitted by this part, including, but not limited to,
34 agreements to purchase or rent office space, equipment and
35 supplies, and pay-related expenses pursuant to Section 33127 and
36 for carrying insurance pursuant to Section 33134.

37 (e) To the extent that any provision of Part 1 (commencing with
38 Section 33000), Part 1.5 (commencing with Section 34000), Part
39 1.6 (commencing with Section 34050), or Part 1.7 (commencing
40 with Section 34100) conflicts with this part, the provisions of this

1 part shall control. Further, if any provision in Part 1 (commencing
2 with Section 33000), Part 1.5 (commencing with Section 34000),
3 Part 1.6 (commencing with Section 34050), or Part 1.7
4 (commencing with Section 34100) provides an authority that this
5 part is restricting or eliminating, the restriction and elimination
6 provisions of this part shall control.

7 (f) Nothing in this part shall be construed to interfere with a
8 redevelopment agency's authority, pursuant to enforceable
9 obligations as defined in this chapter, to (1) make payments due,
10 (2) enforce existing covenants and obligations, or (3) perform its
11 obligations.

12 (g) The existing terms of any memorandum of understanding
13 with an employee organization representing employees of a
14 redevelopment agency adopted pursuant to the
15 Meyers-Milias-Brown Act that is in force on the effective date of
16 this part shall continue in force until September 30, 2011, unless
17 a new agreement is reached with a recognized employee
18 organization prior to that date.

19 (h) After the enforceable obligation payment schedule is adopted
20 pursuant to Section 34169, or after 60 days from the effective date
21 of this part, whichever is sooner, the agency shall not make a
22 payment unless it is listed in an adopted enforceable obligation
23 payment schedule, other than payments required to meet
24 obligations with respect to bonded indebtedness.

25 (i) The Department of Finance and the Controller shall each
26 have the authority to require any documents associated with the
27 enforceable obligations to be provided to them in a manner of their
28 choosing. Any taxing entity, the department, and the Controller
29 shall each have standing to file a judicial action to prevent a
30 violation under this part and to obtain injunctive or other
31 appropriate relief.

32 (j) For purposes of this part, "auditor-controller" means the
33 officer designated in subdivision (e) of Section 24000 of the
34 Government Code.

35 *SEC. 2. Section 34171 of the Health and Safety Code is*
36 *amended to read:*

37 34171. The following terms shall have the following meanings:

38 (a) "Administrative budget" means the budget for administrative
39 costs of the successor agencies as provided in Section 34177.

1 (b) “Administrative cost allowance” means an amount that,
2 subject to the approval of the oversight board, is payable from
3 property tax revenues of up to 5 percent of the property tax
4 allocated to the successor agency for the 2011–12 fiscal year and
5 up to 3 percent of the property tax allocated to the Redevelopment
6 Obligation Retirement Fund money that is allocated to the
7 successor agency for each fiscal year thereafter; provided, however,
8 that the amount shall not be less than two hundred fifty thousand
9 dollars (\$250,000) for any fiscal year or such lesser amount as
10 agreed to by the successor agency. However, the allowance amount
11 shall exclude any administrative costs that can be paid from bond
12 proceeds or from sources other than property tax.

13 (c) “Designated local authority” shall mean a public entity
14 formed pursuant to subdivision (d) of Section 34173.

15 (d) (1) “Enforceable obligation” means any of the following:

16 (A) (i) Bonds, as defined by Section 33602 and bonds issued
17 pursuant to Section 58383 of the Government Code, including the
18 required debt service, reserve set-asides, and any other payments
19 required under the indenture or similar documents governing the
20 issuance of the outstanding bonds of the former redevelopment
21 agency.

22 (ii) *The use of the proceeds of the issuance of Rancho*
23 *Cucamonga Redevelopment Agency’s 2004 Tax Allocation Bonds*
24 *to implement and complete an infrastructure project for which the*
25 *proceeds of those bonds were previously expended to partially*
26 *implement the project by defraying design, property acquisition,*
27 *or construction costs.*

28 (B) Loans of moneys borrowed by the redevelopment agency
29 for a lawful purpose, to the extent they are legally required to be
30 repaid pursuant to a required repayment schedule or other
31 mandatory loan terms.

32 (C) Payments required by the federal government, preexisting
33 obligations to the state or obligations imposed by state law, other
34 than passthrough payments that are made by the county
35 auditor-controller pursuant to Section 34183, or legally enforceable
36 payments required in connection with the agencies’ employees,
37 including, but not limited to, pension payments, pension obligation
38 debt service, unemployment payments, or other obligations
39 conferred through a collective bargaining agreement.

1 (D) Judgments or settlements entered by a competent court of
2 law or binding arbitration decisions against the former
3 redevelopment agency, other than passthrough payments that are
4 made by the county auditor-controller pursuant to Section 34183.
5 Along with the successor agency, the oversight board shall have
6 the authority and standing to appeal any judgment or to set aside
7 any settlement or arbitration decision.

8 (E) Any legally binding and enforceable agreement or contract
9 that is not otherwise void as violating the debt limit or public
10 policy. However, nothing in this act shall prohibit either the
11 successor agency, with the approval or at the direction of the
12 oversight board, or the oversight board itself from terminating any
13 existing agreements or contracts and providing any necessary and
14 required compensation or remediation for such termination.

15 (F) Contracts or agreements necessary for the administration or
16 operation of the successor agency, in accordance with this part,
17 including, but not limited to, agreements to purchase or rent office
18 space, equipment and supplies, and pay-related expenses pursuant
19 to Section 33127 and for carrying insurance pursuant to Section
20 33134.

21 (G) Amounts borrowed from or payments owing to the Low
22 and Moderate Income Housing Fund of a redevelopment agency,
23 which had been deferred as of the effective date of the act adding
24 this part; provided, however, that the repayment schedule is
25 approved by the oversight board.

26 (2) For purposes of this part, “enforceable obligation” does not
27 include any agreements, contracts, or arrangements between the
28 city, county, or city and county that created the redevelopment
29 agency and the former redevelopment agency. However, written
30 agreements entered into (A) at the time of issuance, but in no event
31 later than December 31, 2010, of indebtedness obligations, and
32 (B) solely for the purpose of securing or repaying those
33 indebtedness obligations may be deemed enforceable obligations
34 for purposes of this part. Notwithstanding this paragraph, loan
35 agreements entered into between the redevelopment agency and
36 the city, county, or city and county that created it, within two years
37 of the date of creation of the redevelopment agency, may be
38 deemed to be enforceable obligations.

39 (3) Contracts or agreements between the former redevelopment
40 agency and other public agencies, to perform services or provide

1 funding for governmental or private services or capital projects
2 outside of redevelopment project areas that do not provide benefit
3 to the redevelopment project and thus were not properly authorized
4 under Part 1 (commencing with Section 33000) shall be deemed
5 void on the effective date of this part; provided, however, that such
6 contracts or agreements for the provision of housing properly
7 authorized under Part 1 (commencing with Section 33000) shall
8 not be deemed void.

9 (e) “Indebtedness obligations” means bonds, notes, certificates
10 of participation, or other evidence of indebtedness, issued or
11 delivered by the redevelopment agency, or by a joint exercise of
12 powers authority created by the redevelopment agency, to
13 third-party investors or bondholders to finance or refinance
14 redevelopment projects undertaken by the redevelopment agency
15 in compliance with the Community Redevelopment Law (Part 1
16 (commencing with Section 33000)).

17 (f) “Oversight board” shall mean each entity established pursuant
18 to Section 34179.

19 (g) “Recognized obligation” means an obligation listed in the
20 Recognized Obligation Payment Schedule.

21 (h) “Recognized Obligation Payment Schedule” means the
22 document setting forth the minimum payment amounts and due
23 dates of payments required by enforceable obligations for each
24 six-month fiscal period as provided in subdivision (m) of Section
25 34177.

26 (i) “School entity” means any entity defined as such in
27 subdivision (f) of Section 95 of the Revenue and Taxation Code.

28 (j) “Successor agency” means the county, city, or city and county
29 that authorized the creation of each redevelopment agency or
30 another entity as provided in Section 34173.

31 (k) “Taxing entities” means cities, counties, a city and county,
32 special districts, and school entities, as defined in subdivision (f)
33 of Section 95 of the Revenue and Taxation Code, that receive
34 passthrough payments and distributions of property taxes pursuant
35 to the provisions of this part.

36 *SEC. 3. The Legislature finds and declares that a special law*
37 *is necessary and that a general law cannot be made applicable*
38 *within the meaning of Section 16 of Article IV of the California*
39 *Constitution because of the unique needs of the successor agency*
40 *to the Rancho Cucamonga Redevelopment Agency.*

1 *SEC. 4. This act is an urgency statute necessary for the*
2 *immediate preservation of the public peace, health, or safety within*
3 *the meaning of Article IV of the Constitution and shall go into*
4 *immediate effect. The facts constituting the necessity are:*

5 *In order to ensure the continued funding of pending*
6 *redevelopment projects, it is necessary that this act take effect*
7 *immediately.*

8 ~~SECTION 1. Section 11349.3 of the Government Code is~~
9 ~~amended to read:~~

10 ~~11349.3. (a) The office shall either approve a regulation~~
11 ~~submitted to it for review and transmit it to the Secretary of State~~
12 ~~for filing or disapprove it within 30 working days after the~~
13 ~~regulation has been submitted to the office for review. If the office~~
14 ~~fails to act within 30 days, the regulation shall be deemed to have~~
15 ~~been approved, and the office shall transmit it to the Secretary of~~
16 ~~State for filing.~~

17 ~~(b) If the office disapproves a regulation, it shall return it to the~~
18 ~~adopting agency within the 30-day period specified in subdivision~~
19 ~~(a) accompanied by a notice specifying the reasons for disapproval.~~
20 ~~Within seven calendar days of the issuance of the notice, the office~~
21 ~~shall provide the adopting agency with a written decision detailing~~
22 ~~the reasons for disapproval. No regulation shall be disapproved~~
23 ~~except for failure to comply with the standards set forth in Section~~
24 ~~11349.1 or for failure to comply with this chapter.~~

25 ~~(c) If an agency determines, on its own initiative, that a~~
26 ~~regulation submitted pursuant to subdivision (a) should be returned~~
27 ~~by the office prior to completion of the office's review, it may~~
28 ~~request the return of the regulation. All requests for the return of~~
29 ~~a regulation shall be memorialized in writing by the submitting~~
30 ~~agency no later than one week following the request. Any~~
31 ~~regulation returned pursuant to this subdivision shall be resubmitted~~
32 ~~to the office for review within the one-year period specified in~~
33 ~~subdivision (b) of Section 11346.4 or shall comply with Article 5~~
34 ~~(commencing with Section 11346) prior to resubmission.~~

35 ~~(d) The office shall not initiate the return of a regulation pursuant~~
36 ~~to subdivision (c) as an alternative to disapproval pursuant to~~
37 ~~subdivision (b).~~